



6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R06-OAR-2017-0435; FRL-9983-35-Region 6]

Approval and Promulgation of Implementation Plans; Arkansas; Interstate Transport Requirements for the 2012 PM_{2.5} NAAQS and Definition Update

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: Pursuant to the Federal Clean Air Act (CAA or the Act), the Environmental Protection Agency (EPA) is approving portions of the Arkansas State Implementation Plan (SIP) submittal addressing the CAA requirement that SIPs address the potential for interstate transport of air pollution to significantly contribute to nonattainment or interfere with maintenance of the 2012 fine particulate matter (PM_{2.5}) National Ambient Air Quality Standard (NAAQS) in other states. EPA finds that emissions from Arkansas sources do not contribute significantly to nonattainment in, or interfere with maintenance by, any other state with regard to the 2012 PM_{2.5} NAAQS. The EPA is also approving a revision to update incorporation by reference of NAAQS germane to the Arkansas SIP.

DATES: This final rule is effective on November 7, 2018.

ADDRESSES: The EPA has established a docket for this action under Docket ID No EPA-R06-OAR-2017-0435. All documents in the docket are listed on the <http://www.regulations.gov> Web site. Although listed in the index, some information is not publicly available, e.g., Confidential Business Information or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available

only in hard copy form. Publicly available docket materials are available either electronically through <http://www.regulations.gov> or in hard copy at the EPA Region 6, 1445 Ross Avenue, Suite 700, Dallas, Texas 75202-2733.

FOR FURTHER INFORMATION CONTACT: Sherry Fuerst, 214-665-6454, fuerst.sherry@epa.gov.

SUPPLEMENTARY INFORMATION: Throughout this document “we,” “us,” and “our” means the EPA. We selected a November 7, 2018 effective date for this final rule in order for the CFR to reflect this approval and our August 8, 2018 approval of Arkansas Regulation 19 Chapter 2 (83 FR 38964) which has an effective date of November 6, 2018.

I. Background

The background for this action is discussed in detail in our June 26, 2018 proposal (83 FR 30622). In that document we proposed to approve portions of Arkansas’ State Implementation Plan (SIP) March 24, 2017 submittal, that addresses a CAA requirement that SIPs account for potential interstate transport of air pollution that significantly contributes to nonattainment or interferes with maintenance of the 2012 PM_{2.5} NAAQS in other states. We proposed to determine that emissions from Arkansas sources do not contribute significantly to nonattainment in, or interfere with maintenance by, any other state with regard to the 2012 PM_{2.5} NAAQS. We also proposed to approve updates to that definition of NAAQS and the NAAQS list.¹

We received four anonymous public comments on the proposed rulemaking action. The comments are posted to the docket (EPA-R06-OAR-2017-0435). In the first comment, received on July 31, 2018, the commenter discusses the costs of renewable energy in Europe and in the

¹ In a separate action we approved other revisions to definitions in the Arkansas SIP (83 FR 38964, August 8, 2018).

northeast United States. Such comment is irrelevant and is outside the scope of this specific rule making action. In the second comment, received July 31, 2018 the commenter discusses the use of child labor in rare earth mining, and the dangers associated with this type of mining. Such comment is irrelevant and outside the scope of this specific rule making action. In the third comment, received July 31, 2018 the commenter discusses the CO₂ emissions produced by forest fires. Such comment is irrelevant and outside the scope of this specific rule making action. In the fourth comment, received on July 31, 2018, the commenter provided personal observations regarding the Administration. Such comments are irrelevant and outside the scope of this specific rule making action. Since these comments are not relevant to the specific action EPA proposed, the EPA will not be responding to these comments or making any changes to our proposed rulemaking.

II. Final Action

Pursuant to section 110 of the CAA we are approving the following revisions to the Arkansas SIP submitted on March 24, 2017:

- The portion of the Arkansas SIP submittal, pertaining to interstate transport of air pollution, that establishes emissions from Arkansas will not significantly contribute to nonattainment or interfere with maintenance of the 2012 PM_{2.5} NAAQS in any other state.
- The portion of the Arkansas SIP submittal that revised the definition of NAAQS in Regulation 19, Chapter 2 and revised the entry for “Particle Pollution, PM_{2.5}” in Regulation 19, Appendix B.

We find that emissions from Arkansas sources do not contribute significantly to nonattainment in, or interfere with maintenance by, any other state with regard to the 2012 PM_{2.5} NAAQS.

III. Incorporation by Reference

In this rule, the EPA is finalizing regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, the EPA is finalizing the incorporation by reference of the revisions to the Arkansas regulations as described in the Final Action section above. The EPA has made, and will continue to make, these materials generally available through www.regulations.gov and at the EPA Region 6 Office (please contact Sherry Fuerst, 214-665-6454, fuerst.sherry@epa.gov for more information). Therefore, these materials have been approved by EPA for inclusion in the SIP, have been incorporated by reference by EPA into that plan, are fully federally enforceable under sections 110 and 113 of the CAA as of the effective date of the final rulemaking of EPA's approval, and will be incorporated by reference in the next update to the SIP compilation.

V. Statutory and Executive Order Reviews

Under the Clean Air Act, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, the EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. Accordingly, this action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- Is not a “significant regulatory action” subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Is not an Executive Order 13771 (82 FR 9339, February 2, 2017) regulatory action because SIP approvals are exempted under Executive Order 12866;
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);
- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and
- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, the SIP is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a “major rule” as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by **[INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Particulate matter.

Dated: September 13, 2018.

Anne Idsal,
Regional Administrator, Region 6.

Therefore, 40 CFR part 52 is amended as follows:

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

Subpart E – Arkansas

2. In § 52.170:

a. In paragraph (c), the table titled “EPA-Approved Regulations in the Arkansas SIP” is amended by revising the entries under Regulation 19 for Chapter 2 and Appendix B; and

b. In paragraph (e), the second table titled “EPA-Approved Non-Regulatory Provisions and Quasi-Regulatory Measures in the Arkansas SIP” is amended by revising the entry for “Infrastructure for the 2012 PM_{2.5} NAAQS”.

The revisions read as follows:

§ 52.170 Identification of plan.

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(c) * * *

EPA-APPROVED REGULATIONS IN THE ARKANSAS SIP

State Citation	Title/Subject	State submittal/ effective date	EPA approval date	Explanation
Regulation No. 19: Regulations of the Arkansas Plan of Implementation for Air Pollution Control				
* * * * *				
Chapter 2: Definitions				
Chapter 2	Definitions	3/24/2017	8/8/2018, 83 FR 38964	The definition of VOC was approved on 12/21/2017 (82 FR 60517). The definition of National Ambient Air Quality Standards was approved on [Insert date of publication in the Federal Register], [Insert Federal Register citation].
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Appendix B: National Ambient Air Quality Standards List				
Appendix B	National Ambient Air Quality Standards List	3/24/2017	8/8/2018, 83 FR 38964	The revision to Particle Pollution, PM _{2.5} was approved on [Insert date of publication in the Federal Register], [Insert Federal Register citation].
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(e) * * *

**EPA-APPROVED NONREGULATORY PROVISIONS AND QUASI-REGULATORY MEASURES IN THE
ARKANSAS SIP**

Name of SIP provision	Applicable geographic or nonattainment area	State submittal/ effective date	EPA approval date	Explanation
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Infrastructure for the 2012 PM _{2.5} NAAQS	Statewide	3/24/2017	2/14/2018, 83 FR 6470	Approval for 110(a)(2)(A), (B), (C), (D)(i) (portion pertaining to PSD), (D)(ii), (E), (F), (G), (H), (J), (K), (L) and (M). Approval for 110(a)(2)(D)(i)(I) (significant contribution to nonattainment or interfere with maintenance in any other state) on [Insert date of publication in the Federal Register] , [Insert Federal Register citation] .
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[FR Doc. 2018-20480 Filed: 9/19/2018 8:45 am; Publication Date: 9/20/2018]